

# **The Presidential Appointment Process**

## **Reports of Commissions that Studied the Staffing of Presidential Administrations: A Summary of Their Conclusions and Recommendations for Reform**



Committee on Governmental Affairs  
United States Senate  
Washington, D.C.

Fred Thompson  
Chairman

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Ranking Member

## Introduction

When our form of government was designed more than two hundred years ago, the Founding Fathers realized that the work of elected officials would need to be supplemented by non-elected public servants. Worries developed over time about the threat to democracy posed by individuals who might put their self interest above that of the country and the American people. Since these high-ranking officials would not be elected, what would prevent them from abusing their significant power? As a solution, the Presidential appointment process was developed. The appointment process has evolved, but the basic premise remains the same: for certain influential positions, the White House nominates a candidate who is then confirmed by the Senate. Even though the appointees themselves are not elected, the public can hold the President and the Congress responsible for the appointees' actions while serving the public interest. Thus, it is incumbent on the President and the Congress to ensure that appointees meet exacting standards.

On the surface, the Presidential appointment process appears to be simple and straightforward. A candidate is selected, then nominated, and finally confirmed by the Senate. However, some nominees have complained that the system is mired in bureaucracy, politics, burdensome and often unnecessary paperwork, and confusing ethics laws and policies. Knowledgeable observers worry that some of the best, most-qualified people are turning down the opportunity to serve the public because of privacy concerns, severe post-employment restrictions, and the low public image of government officials.

As early as 1937, recommendations were made to improve the appointment process. President Franklin Roosevelt received recommendations from the Brownlow Committee, which he formed to recommend ways to improve the management of the Executive Branch. Since 1985, nearly a dozen other major studies have examined the way a Presidential administration is staffed. These reports recommend a number of different solutions, but generally follow a central theme. First, a number of the reports make the case that the myriad of paperwork required by various offices needs to be condensed into standardized forms. Second, many of the commissions come to the conclusion that background investigations and financial disclosure regulations must be streamlined. Finally, many of the reports reflect the belief that the complicated, and sometimes conflicting, ethics regulations that set conflict-of-interest policies need to be reexamined and streamlined.

The Committee on Governmental Affairs has taken an active role in evaluating the current state of the Presidential appointment process. As part of this, we introduced an amendment to the Presidential Transition Act, which required a report from the Office of Government Ethics on the current state of the financial disclosure process – a key element of the presidential appointment process – and to make recommendations for reforming it. The Committee made clear that the Office of Government Ethics should ensure that its recommendations are consistent with the need to avoid conflicts of interest on the part of appointees. The Committee notes that merely undertaking this study has brought about efforts to reduce apparently duplicative or unnecessary steps in the appointment process.

While the Committee continues to examine the Presidential appointment process, we know it's important to take note of the numerous exhaustive studies that have preceded and laid the groundwork for our efforts. The following compilation summarizes the findings of these studies, detailing the recommendations put forth by each group. It is worth noting that many of the problems first identified in

President Roosevelt's 1937 Brownlow Commission report continue to exist today. Each successive study has reached the consensus that reform is necessary and changes in the process are achievable.

The Committee will seriously consider the many recommendations made to reform the Presidential appointment process contained in the report of the Office of Government Ethics, the Presidential Appointee Initiative, and other initiatives. The Committee will consider implementing those recommendations that can improve the process, maintain the highest integrity of the public service, and respect the advise and consent process set forth in the Constitution.

Fred Thompson  
Chairman

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Ranking Member

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The Committee, established by President Roosevelt early in his second term, suggested ways to improve management within the Executive Branch. Recommendations for presidential appointees included reducing the overall number of appointees and increasing top Executive Branch salaries.

#### **II. National Academy of Public Administration - 1985** ***Leadership in Jeopardy: The Fraying of the Presidential Appointments System***

The Academy's Presidential Appointee Project gathered historical information on past appointees, as far back as the Eisenhower administration. After analyzing overall trends in the nomination process, the Academy recommended a greater emphasis be placed on early identification of nominees; a streamlined nomination process; and improved quality of life for appointees.

#### **III. National Commission on the Public Service ("Volcker Commission") - 1989** ***Leadership For America: Rebuilding The Public Service***

The National Commission on the Public Service, chaired by Paul Volcker, was established in 1987 as a private, non-profit organization to analyze the "quiet crisis" in the public service and make recommendations for improvements to the President and Congress. The Volcker Commission recommended reducing the overall number of presidential appointees, as well as actively recruiting applicants (based on pre-established job descriptions) early in an administration. The Commission also suggested streamlining the nomination process, in terms of financial disclosure and conflict-of-interest divestment. Increasing pay, adding post-employment severance pay, and giving the cabinet heads more control over nominees were also Commission recommendations.

#### **IV. The President's Commission on Federal Ethics Law Reform ("Wilkey Commission") - 1989** ***To Serve with Honor: Report and Recommendations to the President***

President's Bush's first Executive Order established the Wilkey Commission to evaluate existing ethics rules with twin objectives: "to obtain the best public servants, and to obtain the best from our public servants." The Wilkey Commission proposed a number of changes to ethics laws and procedures aimed at simplifying the appointment process. These included standardized financial disclosure forms; greater cooperation between the Office of Government Ethics, the White House, and the Department of Justice; tighter conflict-of-interest prohibitions; and tax relief legislation for divestment.

#### **V. President's Commission on the Federal Appointment Process - 1990** ***Report on the Federal Appointment Process***

Members of the Commission, composed of ethics officials of the three branches of Government, studied ways to simplify the Presidential appointment process by reducing the number and complexity of forms to be completed by potential appointees. Among the Commission's recommendations were early identification of nominees; standardized forms for FBI investigations, Senate Committee hearings, and financial disclosure requirements; and full-time guidance from the White House during the nomination process.

#### **VI. National Academy of Sciences - 1992** ***Science and Technology in American Government***

Although primarily a study on science and technology positions in the federal government, the Academy also recommended reducing the number of Senate-confirmed appointments; easing financial disclosure, conflict-of-interest disclosure, and post-employment restrictions; standardizing forms; and giving cabinet heads more control over the presidential appointment process.

**VII. American Bar Association, Committee on Government Standards - 1993**

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**VIII. 20th Century Task Force on the Presidential Appointment Process- 1996**

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In 1995, the Twentieth Century Fund gathered a group of distinguished and knowledgeable Americans to consider possible reforms in the process of selection, clearance, and Senate confirmation of presidential appointees. The Task Force report concluded that changes in the Presidential appointment process were necessary to prevent a decline in American leadership. Its recommendations included early selection of nominees, who should be guided by full-time White House personnel; standardized, streamlined forms; decreased financial disclosure; reducing the number of appointees, and increased Office of Government Ethics involvement.

**IX. Heritage Foundation - 2000**

***Keys to a Successful Presidency and Roundtable Discussion***

Among the many suggestions for improving the Presidential appointment process, participants agreed on the need for standardized forms (to be available on the Internet); streamlined financial disclosure requirements; early selections of nominees and a White House office to guide them through the process; faster background investigations; and more White House control over the choice of nominees.

**X. Hart-Rudman Commission - 2001**

***Road Map for National Security: Imperative for Change***

In its efforts to outline a future strategy for the federal government, the Commission proposed that the overall number of appointees be decreased; forms should be standardized within and between government branches; the Office of Government Ethics should become more involved in the process; early selections of candidates should be the norm; and the financial, FBI background, and conflict-of-interest aspects of the nominee procedure should be streamlined and made consistent.

**I. The President's Committee on Administrative Management ("Brownlow Committee")**  
***Administrative Management in the Government of the United States***  
**1937**

**Members of the Brownlow Committee**

**Louis Brownlow**  
*Chairman,  
Presidential Management  
Expert*

**Charles E. Merriam**  
*Advisor, Franklin D. Roosevelt's  
"Brain Trust"*

**Luther Culick**  
*Director, Institute of Public  
Administration*

**Joseph P. Harris**  
*Director of Research*

The Committee was established by President Roosevelt early in his second term to recommend to him ways to improve the management of the Executive Branch, with particular emphasis on strengthening the hand of the President. The Committee's report centered on proposals to reorganize the Executive Branch. However, it offered several recommendations that have some relevance to Presidential appointees:

**Recommendations**

- Extend the merit (civil service) system to all permanent Executive Branch positions, except a very small number of high level policy-making positions.
- Reduce the number of Presidential appointees to department secretaries and others who report directly to the President or who are required by the Constitution to be Presidential appointees. (According to the report, 40,000 positions were subject to Presidential appointment at that time.)
- Increase the pay of top Executive Branch officials.

## **II. Leadership in Jeopardy: The Fraying of the Presidential Appointments System**

### **National Academy of Public Administration's Presidential Appointee Project**

**1985**

#### **Members of the Presidential Appointee Project**

**Paul C. Light**  
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**Lynn Bylan**  
*Project Secretary*

The Academy established the Presidential Appointee Project in 1984 to conduct research on the operations of the appointment process and the backgrounds and work experiences of presidential appointees. To explore past and current White House procedures for recruiting and selecting presidential appointees, personal interviews were conducted with most of the individuals who served as senior presidential personnel aides in the past quarter century. To examine the background of presidential appointees, the project staff identified a target group of past and present officials whose characteristics and experiences were representative of those who hold the most important leadership positions in the executive branch. The appointee population analyzed included 1287 presidential appointees who held a total of 1528 presidential appointments. The Academy conducted extensive biographical research and developed a 12-page questionnaire in order to survey the entire target population, resulting in a number of substantive recommendations.

#### **Recommendations**

- Planning for the staffing of a new administration should begin no later than the month in which the major party candidates are nominated.
- Personnel information resources should be expanded. The Office of Management and Budget should be responsible establishing and updating briefing papers, including job descriptions, for the new administration.
- FBI investigations should be streamlined and more flexible.
- The Senate and the Office of Government Ethics should simplify and clarify the financial disclosure forms, and should require less detail for income and holdings.
- The President should recommend legislation permitting presidential appointees to delay the impact of the capital gains taxes they incur in divesting assets to comply with conflict-of-interest laws and

the mandates of Senate committees.

- A legislative ban should be placed on the solicitation or discussion on future employment in the private sector by any nominee pending his or her appointment. All appointees with genuine financial need should be granted up to 3 months of severance pay for transition out of the federal government.
- No Senator should be allowed to place a hold on a nomination for more than 5 working days.
- A special unit should be established within the Presidential Personnel Office to assist new appointees in handling personal and official difficulties. Appointees should be provided with briefing papers outlining the process of clearances and reviews, and should have orientation programs.
- Appointees' working environments - including pay, compensation, organizational culture, and promotions - need to be re-evaluated to adequately compensate them for their work.



### **III. Leadership For America: Rebuilding The Public Service** **National Commission on the Public Service (“Volcker Commission”)** **1989**

#### **Members of the Volcker Commission**

<b>Paul A. Volcker (Chair)</b> <i>Former Fed Chairman</i>	<b>Anne Armstrong</b> <i>Former Counselor to Presidents Nixon and Ford</i>	<b>Derek Bok</b> <i>President of Harvard</i>
<b>John Brademas</b> <i>President of NYU; former U.S. Rep.</i>	<b>James E. Burke</b> <i>Chairman and CEO, Johnson &amp; Johnson</i>	<b>Yvonne Brathwaite Burke</b> <i>Lawyer; former U.S. Rep.</i>
<b>Dr. Robert A. Charpie</b> <i>Former CEO of Cabot Corp.</i>	<b>William T. Coleman, Jr.</b> <i>Lawyer; former Secretary of Transportation</i>	<b>Richard A. Debs</b> <i>Chairman of R.A. Debs &amp; Co.; former Fed official</i>
<b>James L. Ferguson</b> <i>Chairman and CEO of General Foods</i>	<b>Gerald R. Ford</b> <i>Former President</i>	<b>Douglas A. Fraser</b> <i>Former President of the United Auto Workers</i>
<b>John W. Gardner</b> <i>Former HEW Secretary; founder of Common Cause</i>	<b>General Andrew J. Goodpaster</b> <i>Former NATO Commander</i>	<b>Walter A. Haas, Jr.</b> <i>Honorary chairman of Levi Strauss &amp; Co.</i>
<b>Rev. Theodore M. Hesburgh</b> <i>President Emeritus of Notre Dame</i>	<b>Vernon E. Jordan, Jr.</b> <i>Lawyer</i>	<b>Donald Kennedy</b> <i>President of Stanford</i>
<b>Leonard H. Marks</b> <i>Former Director of USIA</i>	<b>Charles M.C. Mathias, Jr.</b> <i>Lawyer; former Senator</i>	<b>Robert S. McNamara</b> <i>Former Defense Secretary</i>
<b>GG Michelson</b> <i>Senior V.P. for R.H. Macy &amp; Co.</i>	<b>Walter F. Mondale</b> <i>Lawyer; former Vice President and Senator</i>	<b>Edmund S. Muskie</b> <i>Lawyer; former Senator</i>
<b>Nancy M. Neuman</b> <i>President, League of Women Voters</i>	<b>Paul H. O'Neill</b> <i>Then Chairman and CEO of ALCOA; now Treasury Secretary</i>	<b>Norman J. Ornstein</b> <i>Resident Scholar, AEI</i>
<b>Elliot L. Richardson</b> <i>Lawyer; former Attorney General and HEW Secretary</i>	<b>Charles S. Robb</b> <i>Senator; former Va. Governor</i>	<b>Donald Rumsfeld</b> <i>Former and current Defense Secretary</i>
<b>J. Robert Schaetzel</b> <i>Former State Department and Budget Bureau official</i>	<b>Donna E. Shalala</b> <i>Chancellor of the University of Wisconsin</i>	<b>Rocco C. Siciliano</b> <i>Former Chairman and CEO of Ticonderoga</i>
<b>Elmer B. Staats</b> <i>Former Comptroller General</i>	<b>Alexander B. Trowbridge</b> <i>President, National Association of Manufacturers; former Commerce Secretary</i>	<b>Carolyn Warner</b> <i>Lecturer and educational leader</i>
<b>L. Bruce Laingen</b> <i>Executive Director</i>		<b>Paul C. Light</b> <i>Senior Advisor</i>

The National Commission on the Public Service (popularly known as the “Volcker Commission,” named for its chairman, Paul Volcker) was established in 1987 as a private, non-profit organization to analyze the “quiet crisis” in the public service and make recommendations for improvements to the President and Congress. Much of its work focused on career federal employees, but the Commission also made a number of recommendations that are relevant to Presidential appointees.

## Recommendations

- Reduce the total number of Presidential appointees, both those that require Senate confirmation and other non-career positions. While noting that reductions would have to be based on position-by-position assessments, the Commission suggested that a reduction from the then-current 3,000 to 2,000 was “a reasonable target.”
- Develop “qualification statements” for all Presidential appointee positions and make appointments “based on those merits.” Also, the Office of Presidential Personnel should actively recruit appointees and not limit itself to unsolicited resumes or to applicants who were politically active in the Presidential campaign.
- Streamline the financial disclosure process. The Commission specifically endorsed prior recommendations by NAPA and the Harvard Public/Private Careers Project to compress current income and property reporting categories. It also endorsed a recommendation by the Administrative Conference for enactment of legislation to ease tax penalties for divestiture.
- Grant political appointees 3 months severance pay and full benefits at the end of their public service.
- Increase the pay of all public officials, including political appointees. In order to “restor[e] the depleted purchasing power” of top officials in all three branches, the Commission recommended an immediate 25% raise and the indexing of future pay raises.
- Provide orientations for all political appointees.
- Give cabinet secretaries and agency heads more influence over the selection of their subordinate political appointees.
- The President should more often consider career officials for sub-cabinet appointments.
- Reduce the 25% limit on the number of non-career Senior Executive Service positions in any agency.

#### **IV. The President's Commission on Federal Ethics Law Reform ("Wilkey Commission") *To Serve with Honor: Report and Recommendations to the President* 1989**

##### **Members of the President's Commission on Federal Ethics Law Reform**

**Malcolm Richard Wilkey** (Chair)  
*Judge, U.S. Court of Appeals, D.C. Circuit  
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**Griffin B. Bell**  
*Former U.S. Attorney General*

**Jan Witold Baran**  
*Lawyer*

**Judith Hippler Belb**  
*Executive Vice President of the  
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**Lloyd N. Cutler**  
*Former Counsel to President Carter*

**Fred Fisher Fielding**  
*Former Counsel to President Reagan*

**Harrison H. Schmitt**  
*Former Senator from New Mexico*

**R. James Woolsey**  
*Former Navy Undersecretary,  
General Counsel to the Senate Armed  
Services Committee*

**Amy L. Schwartz**  
*Former State Department Lawyer*

President's Bush's first Executive Order established the Wilkey Commission to evaluate existing ethics rules with twin objectives: "to obtain the best public servants, and to obtain the best from our public servants." The study began with the assumption that all public officials want to follow ethical rules, and that "they will do so if the laws are clearly delineated, equitable, uniform across the board, and justly administered." After examining existing regulations, members of the Commission found that several ethics laws needed to be changed in order to comply with these desired characteristics. Thus, the Wilkey Commission proposed a number of changes to ethics laws and regulations.

##### **Recommendations**

- The Office of Government Ethics, in collaboration with the Department of Justice, should issue interpretive regulations relating to financial conflicts of interest, and legislation should be enacted giving the Office of Government Ethics authority to issue rules providing for general waivers.
- Legislation should be enacted to grant tax relief to persons who are required to divest assets in order to avoid conflicts of interest.
- Federal employees should be prohibited from receiving honoraria; criminal prohibitions against supplementing government salaries should apply to all three branches; senior employees should be covered by a uniform percentage cap (subject to Presidential exemption) on outside earned income.
- A 1-2 year post-employment ban should be placed on high-level employees, to prevent the disclosure of non-public information and undue influence.
- Public disclosure reporting systems should be standardized, and categories of reporting should be broadened and generalized.
- A coordinating committee, composed of ethics officials of the three branches of Government, should study ways to simplify the Presidential appointment process by reducing the number and complexity of forms to be completed by potential employees.
- The administrative debatement procedures for former government employees who violate the post-employment restrictions should be strengthened.

## V. President's Commission on the Federal Appointment Process

### Report on the Federal Appointment Process

#### 1990

### Members of the President's Commission on the Federal Appointment Process

**Thomas J. Murrin (Chair)**  
*and Deputy Secretary of  
Commerce*

**Werner Brandt**  
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Jan Naylor, White House Staff  
Robert Swanson, White House Staff  
Betty Thompson, White House Staff  
Christopher Vein, White House Staff  
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William S. Sessions, FBI Director  
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Amy L. Schwartz, Office of the Counsel to the President

The President's Commission on the Federal Appointment Process was established by President Bush's Executive Order 12719. The Commission served as a coordinating committee composed of ethics officials of the three branches of Government. Members of the Commission studied ways to simplify the Presidential appointment process by reducing the number and complexity of forms to be completed by potential appointees. The Commission began its study by noting that long delays in the nomination, confirmation, and appointment processes hindered the effective administration of a new President's goals. These difficulties also prevented the public from holding government officials accountable through their elected representatives. After researching the problem, the Commission offered a number of recommendations.

### **Recommendations**

- The Senate should adopt one basic form for all committees, with the committees reserving the right to include addenda customized to suit their particular requirements.
- Each Senate committee should reconsider the need for appointees to submit net worth statements.
- The executive branch and the Senate should agree on what forms to require, and then distribute the bulk of the forms to the nominee at one time.
- The FBI should provide nominees awaiting Senate confirmation with their FBI files within days of their requests.
- The appointing authority should encourage nominees to submit previously filed SF-86 forms along with completed new forms to assist the FBI in expediting their investigations.
- The FBI should enunciate a clear, consistent policy on which forms it will accept.
- Questions regarding the mental health background of candidates for nomination should minimize any unnecessary intrusion into their medical and psychological histories.
- Appointees for positions requiring Senate confirmation should be nominated as soon as possible, and their average length of service should be increased.
- The Executive Clerk to the President and the departments should maintain and update job descriptions for Presidential appointments requiring Senate confirmation. These job descriptions should be public information.
- White House staff should retain appropriate personnel to guide prospective nominees through the appointment process.
- The national political committees (or campaign staffs) should establish personnel offices for their presidential candidates immediately after their nominating conventions to identify prospective appointees beneath the cabinet rank.
- Positions on boards requiring Senate confirmation should be kept to a minimum.
- The Office of Government Ethics should be more involved in the appointment process for positions requiring Senate confirmation.

**VI. National Academy of Sciences**  
***Science and Technology in American Government***  
**1992**

**Members of the National Academy of Sciences**  
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**R. James Woolsey**  
*Partner,  
Shea & Gardner*

**James B. Wyngaarden**  
*Foreign Secretary, NAS and the Institute of  
Medicine, and Professor of Medicine, Duke  
University*

**Michael McGeary**  
**(Study Director)**

**James Pfiffner (Consultant)**  
*Professor of Government and Politics, George  
Mason University*

**Elizabeth Blount (Project Assistant)**

This report is drawn from a study of the federal government's capacity to recruit highly qualified individuals for the top science- and technology-related leadership positions in the executive branch. The study was conducted by former political appointees and experts in the political appointment process. This panel was asked to study the problems encountered by administrations in attracting and keeping talented individuals in science and technology-related positions. After examining a set of 78 presidentially appointed, Senate confirmed positions at the subcabinet level, the panel reached a number of conclusions and made recommendations to improve the government hiring and retention of high-skilled workers.

**Recommendations**

- Post-employment restrictions should be eased to make positions more enticing.
- Ethics laws should be streamlined and clarified on a continuing basis.
- Conflict-of-interest laws are too stringent, and should be eased, with recusal and full disclosure being the primary remedy in most cases.
- The appointment process should be streamlined and accelerated, with reduced paperwork and background investigations.
- Presidents should rely more heavily on cabinet secretaries and agency heads for recruitment of candidates for subcabinet positions.
- There should be a separate office designated specifically as a science and technology advisor in the Office of Presidential Personnel.
- Reduce the number of presidentially appointed, Senate confirmed positions.
- Review the overall quality of life situation for presidential appointees, and make their compensation more attractive.

**VII. American Bar Association  
Government Standards Committee  
*Keeping Faith: Government Ethics & Government Ethics Regulation*  
1993**

**Members of the Committee on Government Standards**

<b>Professor Cynthia Farina</b> <i>Committee Consultant</i>	<b>Sally Katzen (Chair)</b> <i>Partner, Wilmer, Cutler &amp; Pickering</i>	<b>William H. Allen, Esq.</b> <i>Chairman, Intercontinental Bank, Miami</i>
<b>Honorable Marshall J. Breger</b> <i>Senior fellow Heritage Foundation, Solicitor of Labor (Bush)</i>	<b>Honorable Stephen G. Breyer</b> <i>Supreme Court Justice</i>	<b>Kathleen A. Buck, Esq.</b> <i>DOD General Counsel (Reagan)</i>
<b>Benjamin R. Civiletti, Esq.</b> <i>Former U.S. Attorney General</i>	<b>Stuart E. Eizenstat, Esq.</b> <i>European Community Ambassador, Policy Advisor (Carter)</i>	<b>Ernest Gellhorn, Esq.</b> <i>Jones, Day, Reavis &amp; Pogue</i>
<b>Honorable C. Boyden Gray</b> <i>former Counsel to the President of the United States</i>	<b>Honorable Erwin N. Griswold</b> <i>former Solicitor General, Jones, Day, Reavis &amp; Pogue</i>	<b>Professor Geoffrey Hazard</b> <i>University of Pennsylvania Law School</i>
<b>James F. Hinchman, Esq.</b> <i>Special Assistant to the Comptroller General, GAO</i>	<b>James P. Holden, Esq.</b> <i>Steptoe &amp; Johnson, Chairman of the IRS Commissioner's Advisory Group</i>	<b>Jerome G. Lee, Esq.</b> <i>Morgan &amp; Finnegan, President of the American Intellectual Property Law Association</i>
<b>Honorable James C. Miller</b> <i>Director OMB (Reagan)</i>	<b>Alan B. Morrison, Esq.</b> <i>Co-Director of Common Cause</i>	<b>Steven R. Ross, Esq.</b> <i>Akin, Gump, Strauss, Hauer &amp; Feld, former House Counsel</i>
<b>Honorable John H. Shenefield</b> <i>Assistant Attorney General, Antitrust Division, Department of Justice</i>	<b>Honorable R. Gaull Silberman</b> <i>Member, Equal Employment Opportunity Commission</i>	<b>Judge Walter Stapleton</b> <i>3rd U.S. Circuit Court of Appeals</i>
<b>Thomas M. Susman, Esq.</b> <i>Boston's Ropes &amp; Gray, Chief Counsel on the Senate Judiciary Committee</i>	<b>Catherine Walker, Esq.</b> <i>Senior Vice President and General Counsel for Westin Hotels</i>	
<b>W. Lawrence Wallace, Esq.</b> <i>Assistant Attorney General for Administration (Reagan)</i>	<b>Honorable William H. Webster</b> <i>FBI Director (Reagan)</i>	

The Committee on Government Standards had as its goal to develop a clear, comprehensive, and uncomplicated framework for assessing appropriate conduct for federal employees. The Committee made a number of recommendations to reform the nation's ethics laws. Although not singling out political appointees, many of the Committee's recommendations apply to Presidential appointments.

**Recommendations**

- Expand the tax relief enacted by the Ethics Reform Act of 1989 for divestitures required for ethics purposes, which allowed the rollover of income gains on certain required divestitures. Specifically, the report recommended: (1) extend the rollover option to all federal employees who divest in order to avoid or remedy a conflict of interest; (2) liberalize the types of "neutral" investments into which gains can be rolled over; and (3) enact a "reverse rollover" when an individual disposes of "neutral" investments that were previously acquired as a result of divestiture.
- Reduce the multiple categories of value by which items must be reported on financial disclosure

forms to just two: \$1,000 to \$50,000 and over \$50,000. (The report described the current multiple categories of value as “one of the most intrusive and burdensome, and at the same time least ethically meaningful, aspects” of the financial disclosure rules.)

- Make the reporting requirements for income, liabilities, etc., of an employee’s immediate family members identical to reporting requirements for the employee. Also, eliminate the requirement to specify which family member has an asset or liability.
- Modify the current blanket exception from reporting for mortgages on personal residences. Instead, require reporting of any mortgage known by the employee to be held by someone other than a commercial lending institution.
- Eliminate duplicate reporting by reviewing current reporting categories and identifying those that can be eliminated or consolidated.
- Work toward greater standardization of the variety of forms used for public and intra-agency filings. (The report expressed “particular concern” over the fact that nominees for positions requiring Senate confirmation must fill out one form for the Office of Government Ethics and another form for the Senate.)
- Rewrite the rules on outside activities and receipt of outside income by federal employees to tie them more closely to avoiding ethics concerns or other problems.
- Repeal the 15% cap on outside earned income by senior officials, except for Members of Congress and senior legislative staff. (The report reasoned that outside income restrictions for the other two branches could be imposed administratively.)
- Ease regulatory restrictions on teaching by federal employees.
- Modify restrictions against service by federal employees on corporate boards. Broaden the restrictions against service on the boards of for-profit entities, and ease restrictions against service on boards of non-profits.
- Congress should re-examine and narrow restrictions against federal employee involvement in professional organizations and pro bono activities.
- Amend section 207 of title 18 to broaden the prohibition against post-employment involvement in “particular matters” that an official or employee participated in during federal service.
- Strike a balance between the one-year “no-contact” ban in section 207 of title 18 and the five-year ban in President Clinton’s Executive Order 12834. (The report suggested that one year was too brief while five years was too long. President Clinton rescinded this Executive Order shortly before he left office.)
- Eliminate special exceptions to section 207’s one-year no-contact ban involving dients such as non-profit organizations and state and local governments.
- Eliminate provisions in section 207 that impose more stringent post-employment restrictions involving certain activities, such as trade or treaty negotiations.



**VIII. 20th Century Task Force on the Presidential Appointment Process**  
**Report: Obstacle Course**  
**1996**

**Members of the Task Force**

**John C. Culver (Co-Chair)**  
*former U.S. Senator*

**Charles M.C. Mathias (Co-Chair)**  
*former U.S. Senator*

**John Brademas**  
*former U.S. Congressman*

**Suzanne Braum Levine**  
*Editor, Columbia Journalism Review*

**Arthur B. Culvahouse, Jr.**  
*former Counsel to Reagan*

**Lloyd N. Cutler**  
*former Counsel to Presidents Carter and Clinton*

**Amy Gutmann**  
*Dean of the Faculty, Princeton University*

**Charles V. Hamilton**  
*Professor of Government, Columbia University*

**Constance Horner**  
*OPM Director for Reagan, Director of the Presidential Personnel Office for Bush*

**Thomas J. Kean**  
*President, Drew University; former Governor of New Jersey*

**Arnie Miller**  
*former Director of the Presidential Personnel Office for Carter*

**John D. Podesta**  
*former White House Staff Secretary for Clinton*

**Theodore C. Sorensen**  
*former Special Counsel to President John Kennedy*

**Michael I. Sovern**  
*President Emeritus and Chancellor, Columbia University*

**Richard J. Tofel**  
*Dow Jones & Co.*

**Paul A. Volcker**  
*Former Chairman of the Board of Governors, Federal Reserve Board*

**John C. Whitehead**  
*Former Deputy Secretary of State*

**G. Calvin Mackenzie,**  
*Task Force Executive Director, Colby College*

**David A. Smith**  
*Task Force Consultant; Fellow, Twentieth Century Fund*

The Twentieth Century Fund (now the Century Foundation) is a non-profit, nonpartisan organization that sponsors and supervises analyses of economic policy, foreign affairs, and domestic political issues. In 1995, the Twentieth Century Fund gathered a group of distinguished and knowledgeable Americans to consider possible reforms in the process of selection, clearance, and Senate confirmation of presidential appointees. Its goal was to “assess whether the current system, on balance, is beneficial or detrimental to good government.” In 1996, the task force released an evaluation of the appointment process, concluding that “steps must be taken to prevent a decline in the quality of American leadership and to restore integrity to the appointment system.” The Task Force made a number of recommendations to reform the appointment process:

**Recommendations**

- Presidential nominees are frequently caught in the middle of political disputes in which individual senators place a hold on a set of nominations in order to gain concessions from the President or other Senators. The Task Force recommended modification of this practice to ensure that holds not be used as a political tool. Confirmation debates on executive branch appointments, according to the Task Force, should be shielded from filibusters and hearings should be waived for lower-level, non-controversial appointments.
- To address problems generated by public exposure of nominees' personal lives, the Task Force concluded that sensitive issues should be discussed in closed executive sessions, protecting the privacy of the individual and the integrity of the confirmation process.
- The Task Force recommended reducing the number of Presidential appointments by

approximately a third of the current total and eliminating Senate confirmation for many lower-ranking officials.

- Presidential candidates should begin planning the staffing of their administrations prior to the election. Following the election, additional, temporary staff should manage the appointment process.
- The Task Force suggested establishing a small coordinating office to expedite nominees' background checks and assist them in the confirmation process.
- FBI full-field investigations should be reduced or eliminated for some appointments; financial disclosure requirements should be simplified; and a single financial disclosure form and set of questions should be agreed upon.
- Because current legal requirements are complex and difficult to implement, a regulatory process managed by the Office of Government Ethics should replace criminal statutes in gauging post-employment restrictions on former presidential appointees.
- The Task Force also called for greater civility from all parties that comprise the modern nomination, confirmation, and appointment system. Many nominees in recent years have been subjected to damaging treatment by politicians, the media, and the public. When the system becomes hostile, the entire political system is discredited in the public mind.

### Dissent

Constance Horner, former Director of the U.S. Office of Personnel Management for President Ronald Reagan and former Director of the Presidential Personnel Office for President George Bush, issued a dissent to the Task Force's report. In that dissent, she wrote:

*I do not agree with the Report's premise that there is or should be an inviolable 'zone of privacy' for nominees, such that some areas of inquiry are ruled out-of-bounds in the nomination and confirmation process. From time to time, participants in the process have abused and maligned potential appointees. However, responsible inquiries into character have also identified serious evidence of unfitness to serve.*

Ms. Horner also added:

*On another subject, many of the Report's recommendations propose to shift some power over appointments from the Congress to the President. These recommendations are, in my view, sound on the merits. However, it is worth noting that support for such a shift among bodies such as those advising on this Report strengthened just as the Republican party gained control of the Congress for the first time in forty years. Thus, if a recommendation for a shift of power between the branches is not hospitably received by the new Congress – which knows the institutional influence of its predecessors – it should come as no surprise.*

**IX. Heritage Foundation  
Keys to a Successful Presidency  
and Roundtable Discussion Transcripts  
2000**

**Presenters and Members of the Roundtable Discussion**

**Honorable Edwin Meese III**

*Ronald Reagan Fellow in Public Policy, The Heritage Foundation*

**E. Pendleton James**

*Director of Presidential Personnel (Reagan)*

**Chase Untermeyer**

*Director of Presidential Personnel (Bush)*

**Veronica Biggens**

*Director of Presidential Personnel (Clinton)*

**James King**

*Director of Presidential Personnel (Carter) and Director of OPM (Clinton)*

**James Pfiffner**

*Professor of Government and Public Policy, George Mason University*

**Paul Light**

*Vice President and Director of Government Studies for the Brookings Institute*

As a part of its Mandate for Leadership Project, the Heritage Foundation has published *Keys to a Successful Presidency*, a strategy for succeeding in the White House. One of the nine programs is entitled “Staffing a New Administration” and addresses the task of filling presidential appointments. This chapter draws on the knowledge of past Directors of the Presidential Personnel Office, as well as experts on the Presidential appointment and Senate confirmation process. In a roundtable discussion (which was used in writing the book chapter) the participants listed above recommended changes to the Presidential appointment and Senate confirmation process.<sup>1</sup>

**Recommendations**

- The Cabinets have too much control over Presidential appointees; the White House needs to regain control (particularly early in the process).
- The White House should establish an office to guide nominees through the appointment process.
- A nation-wide talent bank should be established to help accelerate the nomination process.
- There are too many Presidential appointees (particularly those that require Senate confirmation). Each new administration should begin with a “zero-based personnel” policy, and hire based on the core needs of the administration (found within updated job descriptions).
- There should be a media relations office within the White House to guide the media through the appointment process.
- There are too many forms. These forms should be standardized and put on the Internet.
- Background checks are too extensive, and drive people away from accepting nominations.
- Financial detail is too intensive; financial forms and requirements need to be streamlined.

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<sup>1</sup>Because this panel was composed of a range of people, recommendations may not necessarily agree.

**X. U.S. Commission on National Security in the 21<sup>st</sup> Century**  
**(The “Hart-Rudman Commission”)**  
***Road Map for National Security: Imperative for Change***  
**2001**

**Members of the Commission**

**Gary Hart**

*Former Senator from Colorado*

**Anne Armstrong**

*Counsel to the Nixon and Ford Administrations,  
U.S. Ambassador to the U.K.*

**John Dancy**

*Former NBC White House and diplomatic Correspondent*

**Leslie H. Gelb**

*President of the Council on Foreign Relations*

**Lee H. Hamilton**

*Former Representative from Indiana*

**Donald B. Rice**

*President and CEO, UroGensys, Inc.*

**Harry D. Train**

*Retired Admiral, Former Supreme Allied Commander Atlantic*

**Warren B. Rudman**

*Former Senator from New Hampshire*

**Norman R. Augustine**

*Former Chairman and CEO of Lockheed Martin*

**John R. Galvin**

*Retired General and Former NATO Commander*

**Newt Gingrich**

*Former Speaker of the House and Representative from Georgia*

**Lionel H. Olmer**

*Former Under Secretary of Commerce*

**James Schlesinger**

*Former Secretary of Defense and Energy,  
Former Director of the CIA*

**Andrew Young**

*Former Mayor of Atlanta, Ambassador to the United Nations*

Phase III of the U.S. Commission on National Security in the 21<sup>st</sup> Century (the “Hart-Rudman Commission”), discusses ways to reform government structures and processes to enable the U.S. government to implement a strategy for the next 25 years. A major section of that report dealt with human capital requirements for the future, in which ideas for reforming the presidential appointment process were outlined.

**Recommendations**

- The Executive and Legislative Branches should cooperate to shorten the Presidential appointment process.
- The number of Senate confirmed and non-career Senior Executive Service positions be reduced by 25 percent.
- Congress should confirm the National Security Team immediately after the Inauguration.
- Forms should be reduced and standardized to the greatest extent possible.
- Fewer appointees should be subject to full FBI background investigations.
- Only the Chairman and Ranking Member of the confirming Committee should have access to raw FBI files.
- The President and Congressional leaders should revise the conflict-of-interest and ethics regulations by making blind trusts, discretionary waivers, and recusal more easily available as alternatives to complete divestiture of financial and business holdings of concern.
- The conflict-of-interest laws should be decriminalized.